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TAGS: [EAID](#) [ELAB](#) [PHUM](#) [DR](#)  
SUBJECT: DOMINICAN REPUBLIC: LABOR TRADE CAPACITY BUILDING  
PROJECTS FOR FY2007 CAFTA-DR

REF: A. STATE 37718

[1](#)B. SANTO DOMINGO 0964

[1](#)1. (SBU) Per Ref A, this cable contains Embassy's proposals  
for regional and bilateral trade-related labor projects to be  
funded with FY2007 trade capacity funds under the CAFTA-DR  
free trade agreement. These proposals are in line with the  
priorities identified within the White Paper. The breakdown  
in requested funding is as follows:

Expanding the Reach of the Inspectorate: USD 200,000 to  
300,000  
Strengthening Civil Society's Advocacy for Migrant Workers:  
USD 400,000 to 1,000,000  
Assessment on Improving the Administration of Labor Justice:  
USD 75,000 to 150,000

The environment proposals were submitted in a separate cable  
(Ref B).

[1](#)2. (SBU) Each of Embassy's three labor proposals is listed  
below.

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TITLE: Expanding the Reach of the Inspectorate  
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WHITE PAPER PRIORITY AREA: Labor Ministry

A) OBJECTIVE/ELEMENT/SUB-ELEMENT AND FUNDING:

[1](#)6. Private Sector Competitiveness  
6.1 Business Enabling Environment  
6.1.2 Business and organizations

USD 200,000 to 300,000 of FY07 funds is requested for this  
activity.

B) DESCRIPTION AND OUTCOMES:

This activity strengthens the capacity of the Dominican  
Ministry of Labor to apply and enforce Dominican labor law in  
rural, agricultural communities through the provision of  
training and logistical assistance to the Ministry's  
inspectorate division.

As in many countries, agricultural laborers in the Dominican  
Republic generally experience the most systematic and  
egregious labor code violations. The sense of isolation and

independence from central authorities, reinforced by the failure of labor inspectors to visit rural areas, facilitates a culture of disregard for labor rights among some employers and makes laborers less likely to seek relief in the event of violations. These laborers often work in sectors of Dominican agriculture that derive significant revenue from exports to the United States, such as the production of sugar, fruit, vegetables, or tobacco. Others are employed in "sensitive" agricultural sectors protected by CAFTA-DR tariff rate quotas to be phased out over a lengthy period.

The Inspectorate division of the Dominican Ministry of Labor is responsible for verifying compliance with Dominican labor law throughout the country. The Ministry has 38 offices located throughout the country and employs more than 200 labor inspectors. Labor inspectors, particularly those in Ministry's central office, tend to be regarded as capable and impartial, though inspectors in some isolated, rural offices have been accused of incompetence and pro-employer bias. Many labor unions and businesses report that mediation overseen by personnel from the Ministry's inspectorate division is the most effective means of resolving labor disputes.

The Ministry's inspectorate division has only two trucks available for use throughout the country for inspections; both are generally committed for free-trade zone (FTZ) inspections and managerial use, which greatly complicates the ability of inspectors to investigate complaints in rural areas. As a result, last year fewer than 4 percent of the inspections carried out by the Ministry related to the agricultural sector.

The Dominican sugar industry has a reputation of perpetuating some of the worst labor violations; however, migrant worker communities on sugar plantations are notoriously difficult to reach. During the Ministry's last inspection to one such

community last summer, the inspectors' truck became stuck in the mud, and was not able to be towed out until the next day.

USAID has expressed concern that, generally, vehicles purchased for the host government with USG funds may not be used as intended. However, in the specific area of labor inspection, the Embassy has clearly identified a special need for transportation to isolated rural areas. In reflection of the concern regarding possible misuse of vehicles, this proposal envisions the purchase of only two vehicles for the Ministry. If this purchase results in a quantifiable increase in the number of agricultural inspections conducted by the Ministry within one to two years, as it is intended to do, the USG could consider purchasing additional vehicles at a later date.

#### Expected Results:

- Improved capacity in the Ministry of Labor's Inspectorate to enforce labor law in the agricultural sector.
- Greater confidence and willingness among agricultural laborers to demand that their labor rights be respected.

#### Specific Activities:

1. Provide training in labor law and mediation to inspectors in rural provinces. With effective training, inspectors in rural communities will be able to provide the same level of quality in monitoring and mediation services that their colleagues in the major metropolitan areas provide today.

2. Purchase two (2) 4-wheel-drive vehicles for the Secretariat of Labor's Inspectorate division. With

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4-wheel-drive vehicles, inspectors will for the first time be able to access the rural communities where some of the most egregious labor violations occur.

#### Illustrative indicators

- Number of labor inspections conducted in the agricultural sector.
- Number of cases mediated by inspectors in agricultural

provinces.

-- Number of complaints submitted to the Ministry of Labor by agricultural laborers.

-- Number of staff trained, and the number of offices they represent.

#### Relationship to FY2005 - FY2006 CAFTA-DR Funding

Previous year's funding has been provided to USDOL/ILO for a broad range of institutional strengthening and training activities in the labor ministries, and USAID and USDOL/ILO funds are being used for labor law training, with the former developing jurisprudence information systems for the courts. USAID is prior years' funding to strengthen information communication technology capacity at the labor ministries. To Embassy's knowledge, none of these activities has specifically involved the purchase of vehicles for labor inspectors.

#### C) PIPELINE/MORTGAGE AND IMPLEMENTATION MECHANISM:

ILO-ILAB Technical cooperation implemented by the DOL-supported "Cumple y Gana" contractor with a project-duration of October 2003 - October 2008 has provided Ministry of Labor personnel with effective training and support. They have worked to ensure the placement of at least one computer in each of the Ministry's 38 country-wide offices, but due to project limitations were forced to provide the bulk of their training to Ministry personnel stationed in and near the capital of Santo Domingo. A simple amendment to the contract could expedite the provision of vehicles and training to labor inspectors in rural provinces, as proposed here.

#### D) LINKAGE TO THE WHITE PAPER AND TRADE:

Strengthening the Ministry of Labor's Inspectorate division would support the Labor Ministry's priority area in the White Paper, including its recommendations to "continue to expand the capacity of the regional offices," "provide the inspectorate offices sufficient vehicles (( to effectively expand their coverage nationwide," and "make permanent the targeted inspection and compliance initiative in the sugar sector launched in January 2005."

#### E) LOCAL BUY-IN:

The Ministry of Labor's inspectorate division and "Cumple y Gana" country facilitator have identified the lack of vehicles and training for regional inspectors as the primary challenge faced by that organization. Recommendations closely mirroring the activities proposed within this project were explicitly included in the White Paper.

#### F) STATUS OF PROGRESS TO DATE:

n/a

#### G) PUBLIC DIPLOMACY:

The Embassy will provide active public diplomacy support to all CAFTA-DR capacity-building assistance.

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TITLE: Strengthening Civil Society's Advocacy for Migrant Workers  
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WHITE PAPER PRIORITY AREA: Promoting a Culture of Compliance

#### A) OBJECTIVE/ELEMENT/SUB-ELEMENT AND FUNDING:

16. Private Sector Competitiveness  
6.1 Business Enabling Environment  
6.1.2 Business and organizations

USD 400,000 to 1,000,000 of FY07 funds is requested for this activity.

#### B) DESCRIPTION AND OUTCOMES:

The purpose of this activity is to support the development and strengthening of organizations willing to educate migrant workers on their labor rights and advocate on their behalf in

labor disputes.

The "Haitian-ization" of Dominican agriculture is a phenomenon that has accelerated over the last twenty years. Until the late 1970s, the Dominican sugar industry was the only economic sector that heavily relied on Haitian labor. Since then significant downsizing in the sugar industry and continuing instability in Haiti have driven workers of Haitian descent to seek work in other sectors of the Dominican economy. Today they account for the majority of laborers in the construction industry and in virtually every area of the agricultural sector; the Dominican Board of Agro Businesses (JAD) has estimated their participation in Dominican agriculture as comprising approximately 90 percent of the work force.

These workers and their Dominican-born descendents, who tend to be undocumented, lack access to the formal labor sector and are constantly at risk of being "repatriated" to Haiti. These characteristics make them far more vulnerable to labor violations. A study conducted by the Jesuit Refugee Service (JRS) in the agricultural provinces of Mao and Montecristi documented serious and widespread labor violations in virtually every community they visited.

Although undocumented workers are entitled to the same protections under the Dominican labor code as Dominican nationals, human rights NGOs like JRS and the Dominican-Haitian Cultural Center report that workers are unaware of their legal rights and that Dominican labor unions are unwilling to recruit as members workers of Haitian descent. Those organizations collaborate in an informal network comprised of NGOs pursuing legal cases, including labor disputes, on behalf of persons of Haitian descent. They have achieved a few notable successes, but as organizations with limited resources and broader mandates their involvement in agricultural labor advocacy is very limited.

#### Expected Results:

- Increasing awareness among migrant workers of their labor rights, and a greater willingness to stand up for them in the event of violations.
- Better application of labor law provisions in agricultural provinces.

#### Specific Activities:

11. Provide union mobilization training to key civil society organizations that already advocate on behalf of persons of

Haitian descent. Such training could start immediately, since these organizations already exist. It would enable facilitators to travel to pre-selected migrant worker communities and educate workers on their right to form new unions or join existing ones. Facilitators could also work with rural employers to help them understand their responsibilities under the Labor Code.

12. Support efforts among new and existing unions to promote dialogue with Haitian advocates and diversify their reach into agricultural provinces. Existing unions could benefit from efforts to promote dialogue with civil society organizations that advocate on behalf of persons of Haitian descent. If necessary, new unions could be assisted with start-up costs. Unions may also need assistance with initial travel or other logistical costs.

#### Illustrative Indicators:

- Number of unions that actively recruit migrant workers.
- Number of cases raised by unions on behalf of migrant workers of Haitian descent.
- Proportion of migrant workforce that becomes unionized.

Relationship to FY2005 - FY2006 CAFTA-DR Funding  
Requests for regional proposals on protecting migrant workers have been solicited; however, given the unique problems faced by the migrant worker community in the Dominican Republic, Embassy is unaware of any existing proposals that would accomplish the objectives outlined above.

C) PIPELINE/MORTGAGE AND IMPLEMENTATION MECHANISM:

This is a new program.

D) LINKAGE TO THE WHITE PAPER AND TRADE:

Strengthening the efforts of civil society on behalf of migrant workers would support the Promoting a Culture of Compliance priority area in the White Paper, including its recommendation to "establish training initiatives for labor rights," key among which are the right of workers to organize and the right of unions to recruit undocumented migrant workers.

E) LOCAL BUY-IN:

The informal network of organizations that advocate on behalf of workers of Haitian descent has shown remarkable interest in efforts to promote worker rights for migrant workers under the rubric of DR-CAFTA. Officials at the Ministry of Labor have commented on the need for enhanced training on worker rights targeting migrant workers in the agricultural sector. On the other hand, there are vigorous anti-Haitian forces in Dominican society, and this program is likely to provoke strong criticism from them.

F) STATUS OF PROGRESS TO DATE:

n/a

G) PUBLIC DIPLOMACY:

The Embassy will provide active public diplomacy support to all CAFTA-DR capacity-building assistance.

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TITLE: Assessment on Improving the Administration of Labor Justice

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WHITE PAPER PRIORITY AREA: Labor Courts

A) OBJECTIVE/ELEMENT/SUB-ELEMENT AND FUNDING:

- 16. Private Sector Competitiveness
- 6.1 Business Enabling Environment
- 6.1.4 Competitiveness

USD 75,000 to 150,000 of FY07 funds is requested for this activity.

This activity will support an assessment involving civil society and government groups to consider the problems with Dominican labor courts and to propose specific steps that could be taken to improve them.

In the administration of labor justice, the Dominican labor

courts are generally perceived as slow, inefficient, and non-transparent. As in other sectors of Dominican law, undue influence can be a problem. These criticisms were cited in the Department's 2006 Human Rights Report and have been documented by other observers. A study of case load in labor jurisdictions from 2000 documented that the majority of cases are claims of wrongful separation from employment (86 percent), followed by salary issues (8 percent). The average case resolution time was 15.3 months in courts of first instance, 16.4 months in appeals court. Major causes of delay in case resolution is in the trial phase (average 8.6 months between final case presentation and emission of the sentence) and initial case preparation (average 6.3 months). Only 4.5 percent of cases were conciliated once reaching the court system (others may have been conciliated at the level of the Labor Ministry, but no statistics are available to document the volume), with 83 percent resolved by judicial decision. The study reports significant inequity in access to justice, favoring the rich over the poor, and grossly inadequate number of labor jurisdiction public defenders, and generally negative impression of the efficacy of the system from the perspective of the user and the average citizen who has never had contact with the labor justice system. Generally workers are not aware of their rights under the

law, or how to register a claim. Significant levels of corruption and influence peddling are reported, particularly involving collusion between private lawyers, prosecutors, and judges to lower claims and "buy" cases from workers who can't afford to wait months for a final settlement.

Sustained and effective USAID assistance has focused on forming civil society and government partnerships to improve the administration of the criminal justice system. Today, as a result of their efforts, the Dominican Republic has a functioning and dramatically improved Criminal Procedures Code that respects the rights of the accused and encourages speedier resolutions of disputes. However, those improvements have not generally affected the labor justice system, which has changed little over the past several years and as a result has failed to keep up with developments in other areas of Dominican law.

The Department of Labor Cuple y Gana project has a good track record for its work with the Dominican Labor Ministry. Stakeholders agree that the training provided to labor inspectors has vastly increased their skills and performance, and institution building activities have been successful. For this reason, focus in this project on the Ministry of Labor is minimal.

#### Expected Results:

- An increase in awareness among members of government and civil society of the problems facing Dominican labor courts and the steps that can be taken to address them.
- The development of a comprehensive assessment that identifies problems and proposes effective solutions, to be used in future projects that deal with labor courts.

#### Specific Activities:

- Assessment of staffing of labor court system and evaluation of a representative sample of recent labor court decisions.
- Document labor case statistics, in the court system and at the level of the Ministry of Labor: assure the publication of court level and national level statistics on case load, resolution times, percent of cases conciliated, percent of salary decrease in final resolution for litigated and conciliated cases, and 'pre-judicial' case load (cases resolved before entering the court system).
- An analysis of labor court procedures to identify procedural reforms that can be modified through administrative decree to increase efficiency and access.
- Elaboration of proposals for appropriate training in international labor standards and Dominican labor regulations.

#### Illustrative Indicators:

- Number of civil society groups offering feedback in this process.
- Number of meetings hosted between Ministry of Labor and civil society representatives.
- Development of comprehensive reports summarizing the results of the assessment.

#### Relationship to FY2005 - FY2006 CAFTA-DR Funding:

Strengthening Labor Justice - USD 7 million  
Case tracking, case management, and jurisprudence management  
Raising professionalism of the judiciary and related judiciary operators (prosecutors, public defenders, etc.)  
Streamlining and improving judicial procedures (e.g. oral procedures, conciliation, small claims)

#### C) PIPELINE/MORTGAGE AND IMPLEMENTATION MECHANISM:

USAID has an existing program that can be used to provide an administrative basis for this program.

#### D) LINKAGE TO THE WHITE PAPER AND TRADE:

Assessing the needs of the labor courts could be a necessary first step in any eventual initiative to conduct specific reforms or improvements. Even if such a subsequent USG initiative failed to materialize, by having an unbiased and comprehensive assessment of the needs of the labor courts,

including suggestions to improve them, it would be much easier for the Dominican government to implement such improvements in the future. This undertaking would support the Administration of Labor Justice priority area in the White Paper, including its recommendation to "enhance operation of the labor courts."

E) LOCAL BUY-IN:

The Director-General of the Ministry of Labor first proposed a version of this project to Embassy personnel when he was asked to evaluate the needs of the Dominican labor court system. There is a well-established and capable network of Dominican civil-society groups who have worked closely on the modernization of the criminal justice system, and who would likely be very eager to assist in this project as well.

F) STATUS OF PROGRESS TO DATE:

This is a new project.

G) PUBLIC DIPLOMACY:

The Embassy will provide active public diplomacy support to all CAFTA-DR capacity-building assistance.

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